IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 8963 of 1994

Between:

M/s Vasavi Rice Mill, Kothapet, Saroornagar Mandal, R.R. District, rep. By its Managing Partner, Sri. V. Yadaiah.

..... PETITIONER

AND

1. The APSEB, rep. By its Member (D&RE), Vidyuth Soudha, Somajiguda, Hyderabad.
2. The Superintending Engineer/Assessments, Panjagutta, Hyderabad, APSEB
3. The Asst. Divisional Engineer/ C&O APSEB, Saroornagar, R.R.District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ, particularly one in the nature of writ of certiorari, directing the respondents call for the records relating to the impugned order No. CE(O)-45/FTEMP/D.No. 710/93 dated 6.12.1993 passed by the first respondent and set aside the same by holding it as illegal, irregular, unjust baseless, without jurisdiction, against the principles of natural justice and contrary to the rules in force and violation of Article 19 of the Constitution of India and further direct the respondents to restore the power supply to the petitioner.

Counsel for the Petitioner:MR.D.KODANDAM

Counsel for the Respondent No.: SMT.M.VINOBHA DEVI

The Court made the following :

ORDER:

Heard both sides.

The petitioner herein who is the rice mill files this Writ Petition inter alia, seeking to assail the impugned order dated 6.12.1993 passed by the first respondent herein dismissing the appeal as against the orders of final assessment made by the second respondent herein.

The facts in brief are that in pursuance of the inspection made on 28.11.1990 certain irregularities have been found, thereupon, the provisional assessment was made as per the proceedings dated 3.12.1990 followed by the final assessment order dated 3.4.1991. Thereafter, a demand was made for certain amounts on the ground of pilferage. Though the said allegations are sought to be denied by the petitioner at both the levels, the same was not accepted and ultimately both the authorities have held that the petitioner is liable for making such payment.

Though several contentions have been urged in this Writ Petition, but however, the fact remains that the case pertains to the irregularities found in the inspection, which was conducted as long back as on 28.11.1990. Having regard to such long lapse of time and also in view of the fact that the petitioner is a rice mill, respondents ought not to have made the final assessment to an extent of Rs. 58,330/-, which on the face of it is on higher side.

By taking into consideration the other facts and circumstances of the case, it would suffice in the interests of justice to reduce the same to 50% which comes to

Rs. 29,165/-.

With the above observation, the Writ Petition is allowed in part and the petitioner is directed to pay Rs. 29.165/- for the energy pilfered. On such payment, the respondents are directed to restore the power supply to the petitioner i.e., M/s Vasavi Rice Mill, Kothapet, Saroornagar Mandal, R.R. District. No costs. It is needless to mention that any amount paid in the meanwhile shall be given credit to.

25.11.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, The Twenty Sixth Day of November Two Thousand and Four.

To

4. The APSEB, rep. By its Member (D&RE), Vidyuth Soudha, Somajiguda, Hyderabad.

5. The Superintending Engineer/Assessments, Panjagutta, Hyderabad, APSEB

6. The Asst. Divisional Engineer/ C&O APSEB, Saroornagar, R.R.District.

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